

IN THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

FLOYD L. CROWDER, individually and
doing business as CROWDER & SON,

Appellant

v.

UNITED STATES OF AMERICA,

Appellee

ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

BRIEF FOR APPELLEE

FILED

DEC 20 1965

FRANK H. SCHMID, CLERK

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No. 19798

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CALIFORNIA

BRIEF FOR APPELLEE

JURISDICTIONAL STATEMENT

This action was brought by appellant in the United States District Court for the Northern District of California, pursuant to 28 U.S.C. 1346(a), for damages in the sum of \$8,596, allegedly incurred on its building rehabilitation contract with the United States (R. 1-3)^{1/}, which contained a standard Government disputes

"R." refers to the portion of the record reproduced by the clerk of this Court.

"App." refers to the appendix attached to this brief.

clause committing all factual disputes to administrative determination. Appellant's claim was denied initially by the contracting officer and, upon administrative appeal, by the Armed Services Board of Contract Appeals (App. 1b-3b). The district court granted appellee's motion for summary judgment, on the basis of the administrative record and findings (R. 19-23) and, on November 2, 1964, entered judgment for appellee (R. 24). Appellant, on November 12, 1964, filed notice of appeal (R. 27). The jurisdiction of this Court is invoked under 28 U.S.C. 1291.

COUNTERSTATEMENT OF THE CASE

Appellant's claim is based upon the contention that his contract with the Government for building rehabilitation work at McClellan Air Force Base did not require certain painting, sand-blasting, and glass replacement work, in a building designated in the contract as "Bldg. 475," and that he is therefore entitled to additional compensation in the amount of \$8,596 for that work.

The contract, dated August 30, 1962, provided for painting, repairing steam lines and re-roofing various buildings at McClellan Air Force Base, California, at a price of \$106,726. The work was to be done in accordance with the contract's attached provisions, plans and specifications (App. 1b).

Section II of the specifications provided in Paragraph T1-C,

Object Requirements, sub-paragraph J, as follows (R. 22):

Building 475: Whip sandblast all concrete surfaces prior to repainting; paint entire exterior surfaces including metal dust collectors, ducts and other metal work except cement asbestos shingle siding; roof ventilators where shown on drawings are to be painted; replace in kind broken window panes; re-putty window panes as necessary, replace in kind damaged cement asbestos shingles. In building 475E, which is a portion of building 475, replace 19 space heaters, valves, strainers, traps and fillings as shown on drawings.

Sheet 4 of the drawings attached to the contract embodied a map showing an outline designated "Roof Building 475." The map depicted an irregularly shaped building divided into sections. A large section of the building was separately labeled "Bldg. 475." Other, smaller areas of the building were labeled "475A," "475B," "475C," "475D" and "475E." On this map there also appeared symbols indicating particular kinds and location of items to be worked upon, e.g., roof ventilators. Such symbols appeared not only on parts of the building map marked with letters, i.e., "475A" through "475E," but also on the portion separately marked "Bldg. 475," thus indicating that the work was to be performed on all sections of the building (App. 3b, 4b-5b).

The same Sheet 4 also set forth a paint schedule showing the nature of the surfaces to be painted and the paint to be

applied, including the following table (App. 2b):

Proj. No.	Bldg. No.	Room or Area
	* * * * *	
112-2	475	Complete Exterior of Bldgs. 475, 475A, 475B, 475C, 475D & 475E <u>2/</u>

Section II of the specifications, provided (App. 2b):

T1-01 SCOPE: The work consists of the rehabilitation of buildings. Principal features of the work are noted in this section of the specifications. Work not specifically noted herein, but otherwise shown on the drawings, shall be performed by the Contractor at no additional cost to the Government. * * *

Appellant, by letter dated October 15, 1962, presented the claim that the area above referred to as "Bldg. 475" in the contract was not included in the contract, for resolution pursuant to the disputes clause of the contract. The contracting officer

2/ Appellant repeatedly errs in stating or paraphrasing the contractual listing of areas as if it excluded the designation "475" as a designation separate from "475A" through "475E." Compare, e.g., the contract's language above: "Bldgs. 475, 475A, 475B, 475C, 475D & 475E" (App. 2b) with appellant's statement in the complaint: "contract references were to Building 475, areas 475A, 475B, 475C, 475D and 475E" (R. 3). And see appellant's language at R. 2, and his brief at pp. 3, 7, 33-34.

Appellant's repeated references to the area here in question as "475F," without authority therefor in the contract but rather in his own reliance upon exterior building signs, also tends to obscure the facts. E.g., R. 2-3, 32; Appt. Br. 6, 8-9, 11, 14, 19, 23, 31. Compare also appellant's unsupported statement, "Building E is not a portion of Building 475" (Appt. Br. 20) with the actual statement in the contract: "building 475E, which is a portion of Building 475" (R. 22).

letter dated November 14, 1962, rejected appellant's claim. Pursuant to that clause, appellant prosecuted an administrative appeal to the Armed Services Board of Contract Appeals, and by stipulation, submitted the matter upon the contract and written evidence, without testimony.

The Board also rejected appellant's claim. The Board found that the section of Building 475 which was designated as "475" on the contract actually bore signs on its exterior as "475F" (App. 3b). There was no mention in the specifications or drawings of any building "475F." The Board concluded that appellant's contention that that portion bearing signs of "475F" was not included in the work disregarded "the clear indication of that location of the building in the drawings, and its listing as a separate entity in the Paint Schedule and diagram in sheet 4 of the drawings" (App. 3b).

The Board further found that the area 475 was "clearly marked" and that if there was question concerning it, appellant was on notice of a matter that would be decided by the contracting officer (App. 3b).

Appellant brought this action in the district court upon his complaint, asserting, inter alia, that the decision of the Board was supported by substantial evidence (R. 3). The administrative record, including the contract and the Board decision, were introduced by stipulation (R. 9-10). The Government moved for

summary judgment, on the basis of the administrative record and findings (R. 11-12). The district court treated the issue presented as one of law and, after an analysis of the pertinent portion of the contract specifications and drawings, ruled that the contract was free of ambiguity, and that "by the plain and clear words of the contract [appellant] was bound to perform the work he actually did perform on building 475 (R. 23)." Accordingly, the court granted the Government's motion, and entered judgment for the Government and against appellant (R. 24).

STATUTE AND CONTRACTUAL PROVISION INVOLVED

1. The Act of May 11, 1954, (called the "Wunderlich Act") c. 199, Secs. 1-2, 68 Stat. 81, 41 U.S.C. 321-322, provides as follows:

41 U.S.C. 321:

No provision of any contract entered into by the United States, relating to the finality or conclusiveness of any decision of the head of any department or agency or his duly authorized representative or board in a dispute involving a question arising under such contract, shall be pleaded in any suit now filed or to be filed as limiting judicial review of any such decision to cases where fraud by such official or his said representative or board is alleged: Provided, however, That any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence.

41 U.S.C. 322:

No Government contract shall contain a provision making final on a question of law the decision of any administrative official, representative, or board.

2. The standard disputes clause, General Provisions, Standard Form 23-A, clause 6 (April 1961 ed.), provides in pertinent part (41 CFR Sec. 1-16.401(g), 16.901-23A):

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the head of the agency involved. The decision of the head of the agency or his duly authorized representative for the determination of such appeals shall be final and conclusive. This provision shall not be pleaded in any suit involving a question of fact arising under this contract as limiting judicial review of any such decision to cases where fraud by such official or his representative or board is alleged: Provided, however, that any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer

evidence in support of his appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This Disputes clause does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above. Nothing in this contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

COUNTERSTATEMENT OF QUESTION PRESENTED

Where contractual specifications and drawings require the contractor to perform rehabilitation work on all six sections of building, including a section designated "475," is the contractor entitled to extra compensation for doing the work on the six sections of that building, because the section designated as "475" in the specifications and drawings bore signs on its exterior reading "475F"?

ARGUMENT

INTRODUCTION

The contract involved here called for rehabilitation work to be done on various buildings at McClellan Air Force Base, including all six sections of Building 475, which were designated in the specifications and drawings as "Bldgs. 475, 475A, 475B, 475C, 475D & 475E" (App. 2b, 4b-5b). Appellant's claim is that the contract only required him to perform work on five of the sections, because the section identified as "Bldg. 475" in the specifications and drawings bore signs reading "Bldg. 475F" on its exterior. Accordingly, he reasons, the contract only required him to work on sections "475A" through "475E," and he is entitled to additional compensation for his work on the sixth section.

The Armed Services Board of Contract Appeals, which was designated as the arbiter of factual disputes by the standard

disputes clause of the contract, recognized that the section designated "475" in the contract was "in fact marked as 475F by signs on its exterior," but denied the claim on the ground that the drawings and specifications clearly indicated that the work of the contract included work on that section (App. 3b). Treating the issue of the meaning of the specifications and drawings as one of law for its independent evaluation, the district court agreed with the Board that the contract required the work to be performed on all six sections of the building, and dismissed the complaint.

Appellant's principal contention in this Court, as we understand it, is that he was entitled to a judicial trial de novo to determine the intent of the parties in regard to the specifications and drawings, because the Board made no specific finding on that issue (Br. 16-31). Alternatively, appellant appears to argue that his construction of the contract (i.e., that it required work on only five sections of the building) is correct as a matter of law (Br. 32-38).

We show first that the standard disputes clause makes the Board the arbiter of factual disputes, and that judicial proceedings under the Wunderlich Act are limited to a review of the Board findings on the administrative record. United States v. Carlo Bianchi & Co., 373 U.S. 709. Accordingly, there would be no occasion for a trial in the district court even if the administrative findings were inadequate. However, we show that the Board

olved the critical issue of what sections of the building
e covered by the specifications and drawings, and since its
dings are supported by substantial evidence, these findings
binding and are dispositive of appellant's claim.

If the issue of the meaning of the contract's specifications
drawings is treated as one of law, the appellant is in no
ter position on his contention concerning a trial de novo in
district court. For a party is obviously not entitled to
roduce evidence on an issue of law. And, as both the Board
the district court ruled, the drawings and specifications
arly required that work be performed on all six sections of
building. Accordingly, appellant was not entitled to additional
ensation for doing the work on the sixth section, and the
trict court properly granted judgment denying his claim.

THE ARMED SERVICES BOARD OF CONTRACT APPEALS
AND THE DISTRICT COURT PROPERLY DENIED
APPELLANT'S CLAIM FOR ADDITIONAL COMPENSA-
TION BASED ON HIS WORK ON A SECTION OF BUILDING
475, SINCE THE CONTRACT'S SPECIFICATIONS AND
DRAWINGS REQUIRED THE APPELLANT TO PERFORM THE
CONTRACTUAL WORK ON ALL SIX SECTIONS OF THAT
BUILDING

A. The Specifications and Drawings Required the
Contractor to Perform the Contractual Work
on All Six Sections of Building 475.

1. The contract, as demonstrated in greater detail in our
nterstatement supra, clearly required the contractor to perform

the painting and other rehabilitation work contemplated by the contract on all six sections of Building 475. In the map on Sheet 4 of the drawings (App. 4b-5b), six sections were depicted section specifically designated "Bldg. 475" and further sections respectively designated "Bldg. 475A," "Bldg. 475B," "Bldg. 475C," "Bldg. 475D," and "Bldg. 475E." The same plan of designation was followed in the schedule, also appearing on the drawing sheet. There the project was identified by its number, "112-2," the building was generally identified, under a heading "Bldg. No.," as "4" and under the separate heading "Room or Area" the areas were listed in accord with the map, as follows: "Bldgs. 475, 475A, 475B, 475C, 475D & 475E." Had there been any intent to exclude the "475" area of the building, the separate designation "475" would have had to be excluded from the above list, as also from the map, for it served no purpose of general identification of the building, such identification having already been made under the heading of "Bldg. No." The only possible purpose of the designation "475" under "Room or Area" was thus to refer to the area, marked "475" on the drawing, as an area in addition to those designated "475A through "475E." As the Board noted, the designation "475" "could refer only to all parts of the building or to the part marked 475 [by exterior signs]. In either case, it was included in the

Contract" (App. 3b).^{3/}

Appellant's theory, in essence, is that the precise designations of the contract's specifications and drawings are to be supplanted by general designations of the respective sections of the buildings to be adduced by appellant from certain signs appearing on the outside of the buildings. The portion of the building designated in the contract as "475" bore some signs marked "475F." The short answer, of course, is that the contract called for work to be done upon all six sections of the building as prescribed in a precise map of the areas contemplated and in reference to these areas by the numbers employed in the map. At no point in the contract was there any sanction of the use of signs on buildings as a proper or feasible means of showing where work was to be done. And at no point in common experience is there authority for a contract bidder to ignore a contract's precise system of designating an area and to resort instead to extrinsic nomenclature, particularly in such a case as here, where the portion of the building bearing signs reading "475F" was undoubtedly the section "475" delineated by the map and specified

3/ Appellant's contention that there would be no "necessity" for any designation of Building 475 (Appt. Br. 7, 9, 12, 13) is meaningless. The contention patently overlooks the form of the contract which first provided the general location of a building group of buildings--e.g. Sheet 2 (R. 22) and the heading "Bldg. No." (App. 2b)--and then specified, under the heading "Room or Area" the specific areas or buildings to be covered, were specifying "475" as an area separate from and additional to further areas identified by capital letters (App. 2b).

by corresponding number in the contract provisions as the area on which work was required to be performed.

Having agreed to perform the contractual work on all six sections of Building 475, appellant is not entitled to compensation in addition to the contract price for doing so. The fact that one of those sections was designated as "475" in the specifications and drawings, but as "475F" by exterior signs, did not reduce the number of sections covered by the contract from six to five.^{4/}

2. The district court here believed that the issue of the proper construction of the specifications and drawings was one of law, on which it would not be bound by the Board's decision. In our view, an issue as to the proper construction of contractual specifications and drawings is an issue of fact, to be resolved by the Board pursuant to the standard disputes clause, particularly where, as here, the contractor introduces extrinsic evidence as to the intent of the parties. United States v. McKinnon, 289 F. 2d 908 (C.A. 9); Lowell O. West Lumber Sales v. United States,

^{4/} Appellant's repeated statements to the effect that "the government" demanded work on an area "designated by them" as "area 475F" (Appt. Br. 4 and again at pp. 6, 11, 13, 15, 19, 28, 30) is not supported by citation to the record. Our examination of the first letter of the Government appearing in the record, the letter of the contracting officer dated November 14, 1962, indicates that this letter in referring to section F is merely referring to and adopting appellant's language, which apparently first appeared in appellant's letter of October 15, 1962. We do not find in the record any original use by the Government, or any adoption of, the designation "F" as the Government's own term in its demand for completion of the work. Moreover, such use would not have been dispositive of the instant issue as it would have indicated, at most, a use of a handy additional designation, but assuredly no agreement that this was the only possible designation of the area or that such use was to effect a change in the contractual designation.

70 F. 2d 12 (C.A. 9); Allied Paint & Color Works v. United States,
109 F. 2d 133, 137 (C.A. 2); Gottlieb Contracting, Inc. v. United
States, (C.A. 2, No. 30002, decided December 2, 1965). And, since
the Board findings are supported by the substantial evidence of
the specifications and drawings themselves, the findings are bind-
ing on the parties. 41 U.S.C. 321, supra, p. 6 ; United States
v. McKinnon, supra.^{5/}

Nothing turns, however, upon whether such issues are factual
or legal. For here there is no real dispute about the meaning of
the contractual specifications and drawings. The meaning attributed
to them by the Board and the district court was clearly the proper
one. For, as we have shown above, the specifications and drawings
clearly required that the rehabilitation work of the contract be
performed on all six sections of Building 475, including that
section designated "475" in the drawings and specifications.
Appellant does not challenge this requirement, nor does he dispute
the fact that the section so designated was in fact the same
section which bore signs reading "475F." He argues instead that
he should receive additional compensation for painting that section,
because it was not designated as "475F" either in the specifications

^{5/} The district court decision relied upon by appellant in this
connection (App. Br. 18), i.e. Bangor Roofing & Sheet Metal Co. v.
Cunningham, 141 F. Supp. 205 (D. Me.), was vacated and remanded on
appeal, 241 F. 2d 811, C.A. 1. In Bangor, the effect of the
Wunderlich Act was held to be restricted to limitation of contract
provisions and not to apply to other statutes, such as the statute
authorizing the Comptroller General to conclusively determine
certain facts. (241 F. 2d 811 at 816).

or in the drawings. Appellant's contention fails as a matter of law, however, because the contract clearly required him to perform the rehabilitation work on all six sections of the building, however designated.

B. The District Court Properly Granted Judgment on the Administrative Record, Because the Relevant Factual Issues Were Resolved by the Armed Services Board of Contract Appeals, and Its Findings Preclude Recovery by Appellant.

Appellant contends that the district court erred in entering summary judgment for the Government because there were unresolved factual issues which should be determined in a judicial trial (Appt. Br. 17). He seeks the right to show "factually," "by evidence not considered by the Board" the "true intent of the contracting parties" (Appt. Br. 10, 13, 16-18). In so doing, he misconceives the nature of the judicial function in cases containing standard "disputes" clauses and an administrative record and findings. For such clauses make the administrative tribunals the arbiters of all factual disputes arising under the contract, and it is clear that the judicial function in such cases is limited to a review on the administrative record. United States v. Carlo Blanchi Co., 373 U.S. 709, 714. Thus, even if the Armed Services Board of Contract Appeals had failed to render complete findings, the appropriate remedy would be to remand the matter to the Board not to hold a judicial trial. 373 U.S. at 717-718. Appellant was allowed to present all the evidence he wished to the Board. He

those, by stipulation, to submit the matter upon documentary evidence only (App. 1b). Having had one evidentiary hearing at which he introduced all the evidence he wished to present, he is not entitled to another evidentiary hearing because he was unsuccessful in his first attempt.^{6/} United States v. Carlo Bianchi, supra, 373 U.S. at 716-717; Allied Paint & Color Works v. United States, 309 F. 2d 133, 138 (C.A. 2), certiorari denied, 375 U.S. 813.

There was, however, no defect in the Board's findings here. For the Board found that the section of Building 475 described as "Bldg. 475" in the specifications and drawings was the same section as that described as "475F" by exterior signs, but that those specifications and drawings clearly indicated that the contract work was to be performed on that section, as well as on the other five sections of that building (App. 3b). Since the Board ruled that the specifications and drawings of the contract clearly required appellant to perform the work in issue, it had no occasion to make any finding as to the subjective intent of the contracting parties. Accordingly, the Board's findings provided

^{6/} Even the Court of Claims, which has traditionally construed the disputes clause narrowly (See, Silverman v. United States, 24 F. 2d 287, 289 (C.A. 1)), has, since the Bianchi decision, ruled that factual disputes as to the intent of the parties must be resolved on the administrative record, and not by evidence taken at a judicial trial. Morrison-Knudson v. United States, 345 F. 2d 833, 836, 837 (Ct. Cl.).

an adequate basis for the granting of judgment denying appellant's claim.

CONCLUSION

For the foregoing reasons, we submit that the judgment of the district court should be affirmed.

JOHN W. DOUGLAS,
Assistant Attorney General,

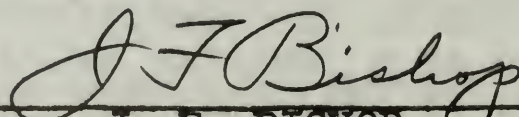
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DECEMBER 1965

CERTIFICATE

I certify that, in connection with the preparation of this brief, I have examined Rules 18 and 19 of the United States Court of Appeals for the Ninth Circuit, and that, in my opinion, the foregoing brief is in full compliance with those rules.



J. F. BISHOP
Attorney, Department of Justice,
Washington, D.C., 20530.

A P P E N D I X

APPENDIX

DECISION OF ARMED SERVICES BOARD OF CONTRACT APPEALS

(caption and appearances omitted)

OPINION BY MR. SADTLER

This is a claim for extra painting and glass replacement on a building rehabilitation contract. Appellant states that the work alleged to have been outside of the scope of the contract cost \$8,601.00. The parties have stipulated to submit the appeal on the record without an oral hearing, and have not filed briefs.

The contract, dated 30 August 1962, is for painting, repairing steam lines and re-roofing various buildings at McClellan Air Force Base, California at a price of \$106,726.00. The work was to be done in accordance with attached provisions, plans and specifications, including Standard Form 23A, General Provisions. The question to be determined is whether Section F of Building 475 was included in the contract. Appellant, by letter of 6 October 1962, presented the claim of the subcontractor that this area was not included. The contracting officer determined by his letter of 14 November 1962 that it was, and a timely appeal was taken on 7 December 1962. It was followed by a more detailed letter of 5 January 1963.

The Unit Price Schedule of appellant's bid became the schedule of Items of the contract. Item 23a states the work involved in this appeal, as follows:

	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Amount</u>
		* * * * *		
23. Building 475				
a. Painting	1	Job	Lump Sum	<u>\$10,400.00"</u>

* * * * *

THE HISTORY OF THE

REPUBLIC OF THE UNITED STATES

OF AMERICA

FROM THE FIRST SETTLEMENTS TO THE PRESENT TIME

BY

JOHN F. JOHNSON

NEW YORK

1880

THE HISTORY OF THE

Section I of the specifications covers "Project Provisions." Paragraph P-03, "Drawings", includes subparagraph b:

"b. The specifications and drawings which form a part of this contract are integral. Work shown on one, although not shown on the other, shall be executed as though shown on both. Should specifications and drawings conflict, the specifications shall govern. Any doubt that may arise as to the intent and purpose of the specifications and drawings, shall be referred to the Contracting Officer."

Section II of the specifications is the Technical Provisions. Paragraph T1-01 provides:

"T1-01 SCOPE: The work consists of the rehabilitation of buildings. Principal features of the work are noted in this section of the specifications. Work not specifically noted herein, but otherwise shown on the drawings, shall be performed by the Contractor at no additional cost to the Government. In general the work includes interior and exterior painting; reroofing; replacing space heaters; steam and condensate lines, pressure reducing valves, fittings, traps, insulation, etc., on heating systems; and other related maintenance work."

Paragraph T1-02 states that the work is divided into ten projects, and lists them. Project j, entitled SMA-112-2, is Building 475, permanent construction; 238,646 sq. ft."

Paragraph T1-03 sets forth the project requirements. For Project j, the work is described only as on "Building 475", although it is further specified that certain heating equipment will be replaced "In Building 475E, which is a portion of Building 475"

Sheets 2 and 4 of the drawings are relevant. Sheet 2 is a Building Location Plan. It shows an outline designated 475, with no letters in connection with it. Sheet 4, "Painting" includes a Paint Schedule for various projects and buildings, showing the nature of the surfaces to be painted and the paint to be applied. Building 475 is identified as follows:

"Proj. No.	Bldg. No.	Room or Area
	* * * * *	
112-2	475	Complete Exterior of Bldgs. 475, 475A, 475B, 475C, 475D & 475E"

1. The first part of the paper discusses the importance of the study and the objectives of the research. It also mentions the scope of the study and the limitations. The second part of the paper discusses the methodology used in the study. It includes the data collection methods and the analysis techniques. The third part of the paper discusses the results of the study. It includes the findings and the conclusions. The fourth part of the paper discusses the implications of the study. It includes the practical implications and the theoretical implications. The fifth part of the paper discusses the future research. It includes the suggestions for further research and the conclusions.

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On this sheet there also appears a diagram entitled "Roof Building 475", showing an irregularly shaped building divided into sections. The largest is marked "Bldg. 475", and the others "Bldg. 475A" to "Bldg. 475E." This diagram is accompanied by a legend showing signs which indicate the kind and location of work to be done. These signs are placed at appropriate locations on all parts of the building diagram, including that marked "Bldg. 475."

There is no mention in the specifications or drawing of any building as Building 475F. The pleadings filed by the parties now, however, that the section designated 475 is in fact marked as 475F by signs on its exterior. Appellant's claim is that, since 475F is not specified in the contract, it is not included in the work. This contention, however, would disregard the clear indication of that portion of the building on the drawings, and its listing as a separate entity in the Paint Schedule and diagram in sheet 4 of the drawings. It is listed as 475 instead of 475F, but is clearly shown. Paragraph P-03b of the drawings requires that the work be performed. If there is no building properly known as 475, then appellant was put on notice by that paragraph of a conflict to be referred to the contracting officer. That number could refer only to all parts of building 475 or to the part marked 475F. In either case it was included in the contract. If it were not, the reference is meaningless.

The appeal is denied.

Dated 6 May 1963.

/s/ Leander R. Sadtler

LEANDER R. SADTLER

Member of Division No. 8,
Armed Services Board of Contract
Appeals

I concur

I concur

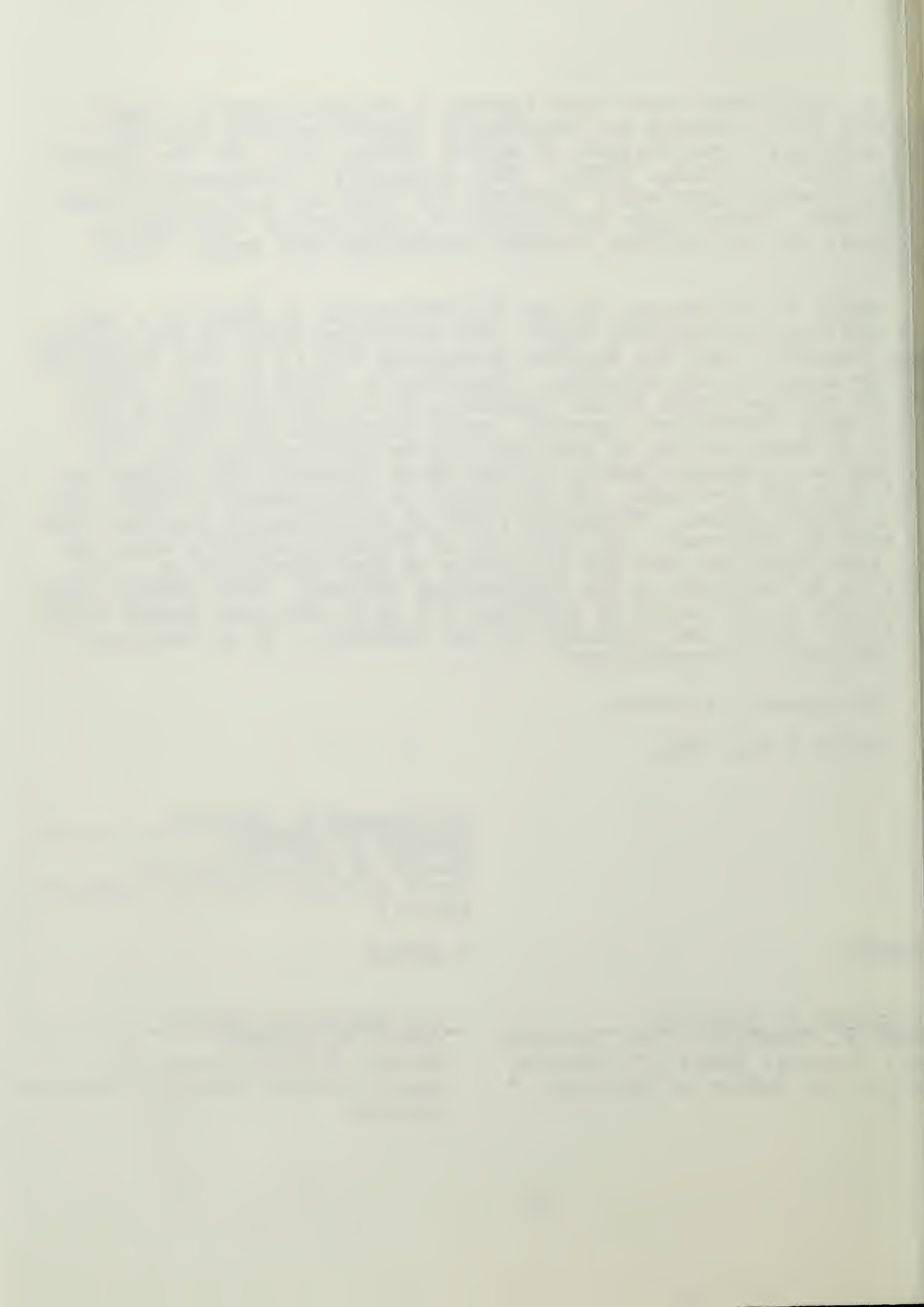
/s/ George W. Crawford

GEORGE W. CRAWFORD, Vice Chairman
Armed Services Board of Contract
Appeals and Member of Division
No. 8

/s/ Seward H. Bowers

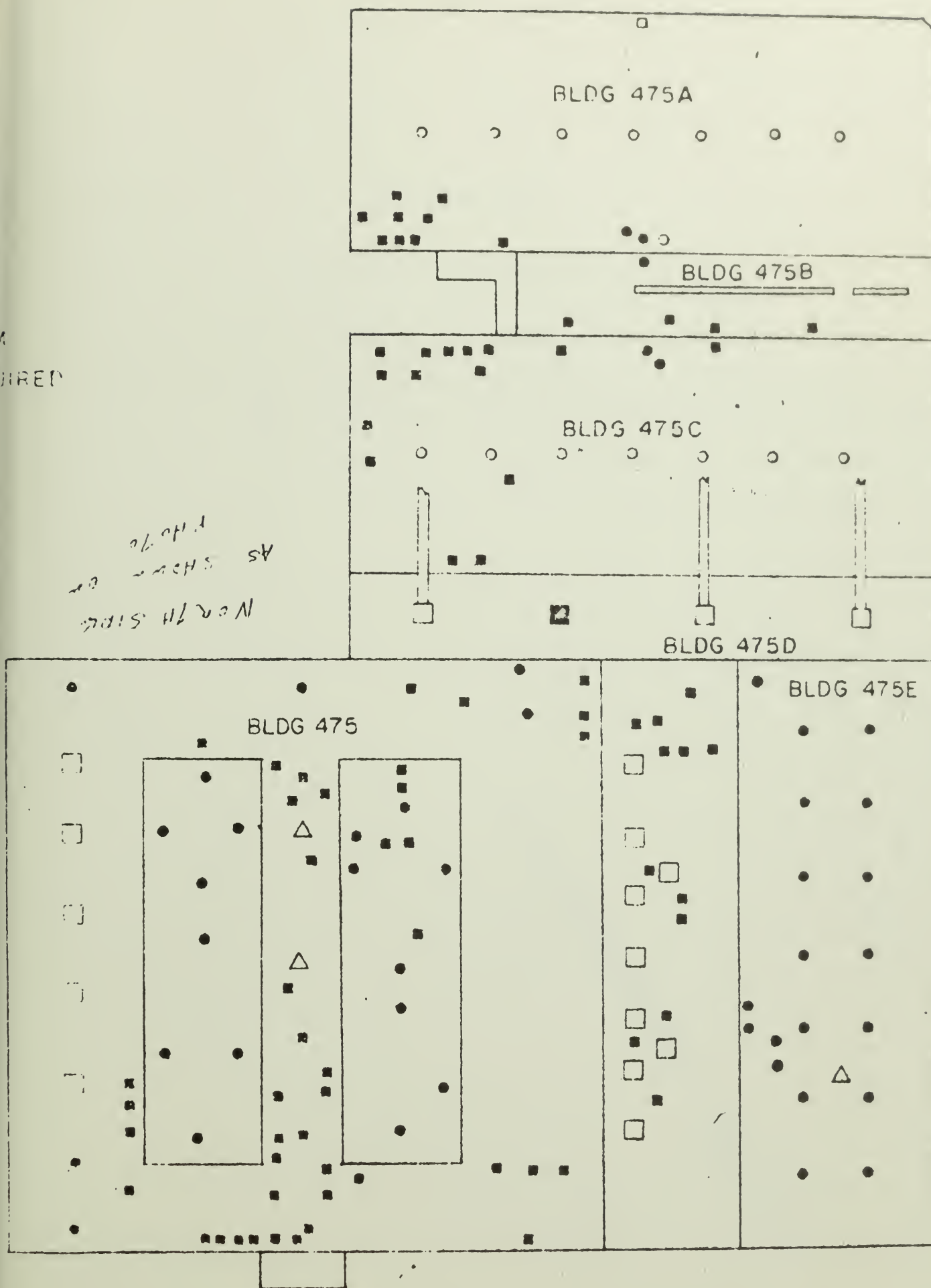
SEWARD H. BOWERS

Member of Division No. 8,
Armed Services Board of Contract
Appeals



REQUIRED

AS SHOWN ON
NORTH SIDE



EAST

SOUTH SIDE

AS SHOWN ON

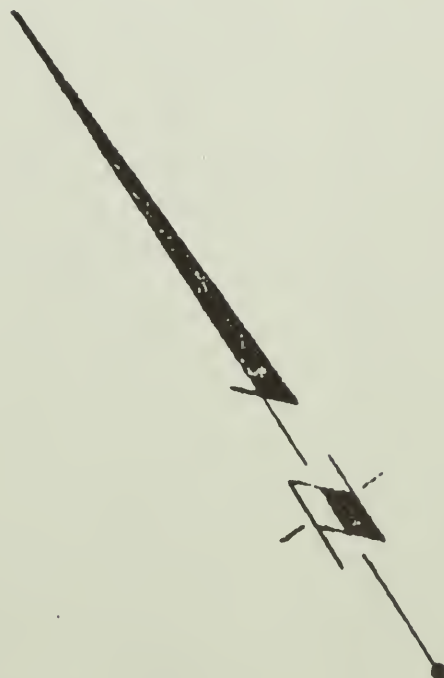
PHOTOS

BUILDING 475

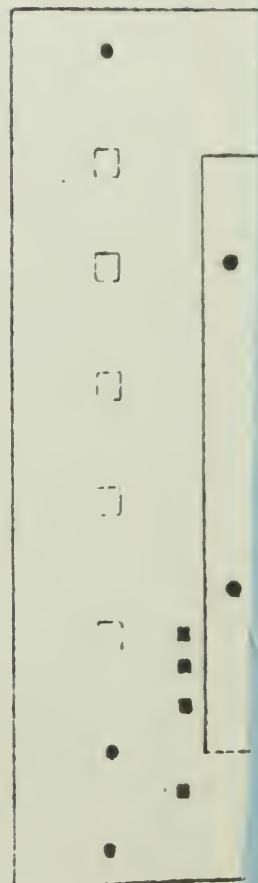


LEGEND

- BLOWER, NO PAINTING REQUIRED
- BLOWER TO BE PAINTED ALUMINUM
- VENTILATOR, NO PAINTING REQUIRED
- VENTILATOR TO BE PAINTED ALUMINUM
- EQUIPMENT BUILDING TO BE PAINTED ALUMINUM
- EQUIPMENT BUILDING & DUCT, NO PAINTING REQUIRED
- △ EVAPORATIVE COOLER, NO PAINTING REQUIRED



WEST SIDE



7th Street
over
the
road

